

Indiana Professional Licensing Agency

Indiana Optometry Board

2006 Edition

Optometry Statute
(IC 25-24)

Optometry Rules
(Title 852)

Optometric Legend Drug Prescription Advisory Committee Statute
(IC 25-26-15)

Optometric Legend Drug Prescription Advisory Committee Rules
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Access to Health Records – Contact Lens Prescriptions
(Selected sections of Title 16, Article 18 and Article 39)

**Commercial Practices – Federal Trade Commission
Contact Lens Rule**

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ARTICLE 24. OPTOMETRISTS

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Chapter 1. Regulation of Optometrists -- Creation of Board.

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IC 25-24-1-1 Indiana optometry board; organization; powers and duties

Sec. 1. (a) There is created the Indiana optometry board (referred to in this chapter as the board), whose duty it shall be to carry out this chapter. The board shall consist of six (6) members appointed by the governor. Five (5) of these members must have been resident optometrists, licensed under this chapter, engaged in the actual practice of optometry in Indiana for a period of five (5) years prior to their appointment, and not more than three (3) of the optometrist members may belong to the same political party. The sixth member of the board, to represent the general public, shall be a resident of this state who has never been associated with optometry in any way other than as a consumer. The appointed members shall serve for a term of three (3) years each, and each shall hold his office until his successor is appointed. Appointment to fill vacancies from any cause shall be made by the governor for the residue of the term. The members of the board, before entering on their duties, shall each take and subscribe to the oath required to be taken by other state officers, which shall be administered by the secretary of state and filed in his office; and the board shall have a common seal. The board:

- (1) shall administer oaths and take affidavits as required by this chapter, certified under the hand and the seal of the board;
- (2) shall require the attendance of witnesses and the production of books, records, and papers pertinent to any matters coming before the board; and
- (3) for that purpose may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, papers, or documents, directed to the sheriff of the county where the witness resides or is to be found, which shall be served and returned in the same manner as subpoenas in civil actions in the circuit court are served and returned.

(b) The board shall adopt rules, and do any and all things not inconsistent with this chapter which may be necessary or expedient for the effective enforcement of this chapter, for the full and efficient performance of its duties under this chapter, and for the reasonable regulation of the profession and practice thereof by persons licensed under this chapter.

(c) The board shall adopt rules, not inconsistent with this chapter, governing applicants and applications for license under this chapter and governing the examination of applicants before beginning the practice of optometry in this state, and shall establish a schedule of qualifications of applicants, and a schedule of the minimum requirements with which applicants for examination must comply before they can be examined or receive a license, which schedules of qualifications of applicants and of minimum requirements shall be kept in a record for that purpose by the board.

(d) The board shall establish and record, in a record kept for that purpose, a schedule of the minimum requirements and rules for the recognition of schools of optometry, so as to keep the requirements of proficiency up to the average standard of other states.

(e) The board shall adopt rules establishing standards for the competent practice of optometry.

(f) The board shall assist in the prosecution of any violation of this chapter and assist in the enforcement of this chapter.

(g) The board shall utilize, when expedient, an agent whose title shall be inspector of the board, who shall hold office during the pleasure of the board and who shall, while in office, serve and execute any process or order issued by the board under this chapter. Such agents may enter any optometrist's establishment or any place where the optometrist is located for the purpose of practicing the optometry profession to inspect the premises and the licenses of all optometrists operating therein, and the inspector may inspect all instruments and patient records used in the conduct of the profession and all ophthalmic materials which are to be delivered to the public.

(h) The board shall utilize the services of attorneys and other necessary assistants in carrying out this chapter.

(i) The board may:

(1) grant or refuse to grant licenses as provided in this chapter;

(2) place any licensee on probation; and

(3) revoke or suspend the license, as provided in this chapter, of any optometrist for any violation of this chapter or for a violation of any rule of the board.

(j) The board has such other powers and duties as may be provided in this chapter.

(Formerly: Acts 1907, c.187, s.1; Acts 1913, c.359, s.2; Acts 1919, c.207, s.1; Acts 1929, c.45, s.1; Acts 1935, c.38, s.1.) As amended by Acts 1977, P.L.172, SEC.31; Acts 1979, P.L.17, SEC.47; Acts 1981, P.L.222, SEC.177; Acts 1982, P.L.113, SEC.60; P.L.169-1985, SEC.79.

IC 25-24-1-2 Meetings; quorum; record

Sec. 2. The board shall annually elect from its members a president and secretary. The board shall meet at least once each year, at Indianapolis, Indiana, and in addition thereto whenever and wherever the president and secretary thereof shall call a meeting; a majority of the board shall at all times constitute a quorum. The secretary provided for the board shall keep a full record of the proceedings of the board, which record shall at all reasonable times be open to public inspection.

(Formerly: Acts 1907, c. 187, s.2; Acts 1935, c.38, s.2.) As amended by Acts 1981, P.L.222, SEC.178; Acts 1982, P.L.113, SEC.61.

IC 25-24-1-3 Examination; issuance of license; applicant licensed in other state; fees

Sec. 3. (a) Every person, except those exempted under this chapter, or those excepted from the taking of an examination under this chapter, before beginning the practice of optometry in this state, must pass an examination which shall be given or approved by the board.

(b) Any person desiring to be licensed by the board must fill out an application furnished by the board, which application must be verified by the applicant, and the applicant must file the verified application with the board. The applicant shall pay an application fee set by the board under section 1 of this chapter. If the applicant meets the requirements for licensure the applicant shall pay a further sum set by the board under section 1 of this chapter before the board may issue a license to the applicant.

(c) All persons successfully passing the examination and meeting the requirements of the board shall be registered in a record and shall also receive a license to be signed by the president and secretary of the board.

(d) Any applicant may, at the discretion of the board, be licensed if the applicant presents evidence that the applicant has been issued a license by any other state where the requirements for licensure are, in the opinion of the board, equivalent to the requirements for licensure in this state, provided that the applicant has not previously failed an examination given or approved by the board. The fee for licensing such applicant shall be set by the board under section 1 of this chapter.

(e) A license issued under this section is valid for the remainder of the renewal period in effect on the date of issuance. (Formerly: Acts 1907, c. 187, s.3; Acts 1919, c.207, s.2; Acts 1935, c.38, s.3; Acts 1973, P.L.258, SEC.1.) As amended by Acts 1977, P.L.172, SEC.32; Acts 1981, P.L.222, SEC.179; P.L.169-1985, SEC.80; P.L.149-1987, SEC.68; P.L.33-1993, SEC.43.

IC 25-24-1-3.1 Repealed

(Repealed by P.L.33-1993, SEC.74.)

IC 25-24-1-3.2 Issuance of limited license

Sec. 3.2. (a) Notwithstanding section 3 of this chapter, the board may issue or renew a limited license to practice optometry at the Indiana University School of Optometry if the applicant:

(1) holds an active license in another jurisdiction; and

(2) meets the continuing education requirements under section 14.1 of this chapter.

(b) A limited license issued under this section is valid for two (2) years.

(c) A limited license issued under this section does not allow the holder of the license to be granted or have renewed a certificate to administer, dispense, or prescribe legend drugs unless the holder of the license meets the requirements of IC 25-26-15-15, IC 25-26-15-16, and IC 25-26-15-18.

As added by P.L.234-1995, SEC.19 and P.L.235-1995, SEC.9.

IC 25-24-1-4 Practice of optometry defined

Sec. 4. The practice of optometry is hereby defined to be any one of the following acts, or any combination of, or part of the following acts:

(a) The examination or diagnosis of the human eye, to ascertain the presence of abnormal conditions or functions which may be diagnosed, corrected, remedied or relieved, or the application or prescription of lenses, prisms, exercises, or any physical, mechanical, physiological or psychological therapy, or the employment of any means, for the purpose of detecting any diseased or pathological condition of the eye, or the effects of any diseased or pathological condition of the eye, which may have any significance in a complete optometric diagnosis of the eye or its associated structures.

(b) The application, use, or adaption of physical, anatomical, physiological, psychological or any other principles through scientific professional methods and devices, to the examination of the eyes and vision, measuring their function for the purpose of determining the nature and degree of their departure from the normal, if any, and adopting optical, physiological and psychological measures and/or the furnishing or providing any prosthetic or therapeutic devices for the emendation thereof.

(Formerly: Acts 1907, c.187, s.4; Acts 1913, c.359, s.3; Acts 1919, c.207, s.3; Acts 1935, c.38, s.4.)

IC 25-24-1-5 Application of chapter to physicians and surgeons

Sec. 5. Nothing in this chapter shall be considered to apply to physicians and surgeons who have been authorized to practice medicine, surgery (as described in IC 25-22.5-1-1.1(a)(1)(C)), and obstetrics under the laws of the state of Indiana.

(Formerly: Acts 1907, c.187, s.6; Acts 1935, c.38, s.5.) As amended by Acts 1982, P.L.154, SEC.85; P.L.217-1993, SEC.3.

IC 25-24-1-6 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-7 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-8 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-9 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-10 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-11 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-12 Display of license

Sec. 12. Every person who is granted a license under this article shall display it in a conspicuous part of the office in which the licensee practices optometry. Whenever practicing the profession of optometry outside of, or away from, the office or place of business, the licensee shall make available to each patient or person fitted with ophthalmic materials the licensee's name, office address, and number of the license.

(Formerly: Acts 1907, c.187, s.14.) As amended by Acts 1977, P.L.172, SEC.33; P.L.169-1985, SEC.81.

IC 25-24-1-13 Compensation and expenses of board

Sec. 13. Each member of the board may receive as compensation a salary per diem for each day actually engaged in the duties of his office and necessary travel expenses incurred in attending the meetings of the board in accordance with travel policies and procedures established by the department of administration and the state budget agency. All expenses shall be paid from the general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations. All fees and assessments received under the provisions of this chapter shall be deposited with the treasurer of the

state of Indiana, and be deposited by him in the general fund of the state. The treasurer shall pay the per diem expenses as provided herein only on the itemized verified statement of the person entitled thereto. In accordance with IC 25-1-5, said board is expressly authorized to use any part of said appropriated funds available for the purpose of assisting in prosecuting any person violating any of the provisions of this chapter, or for the purpose of enforcing by legal action, any of the provisions of this chapter. (Formerly: Acts 1907, c. 187, s. 15; Acts 1913, c. 359, s. 5; Acts 1919, c. 207, s. 4; Acts 1935, c. 38, s. 8.) As amended by Acts 1976, P.L. 119, SEC. 17; Acts 1981, P.L. 222, SEC. 180.

IC 25-24-1-14 License renewal; fee; failure to renew; expiration of license; inactive license

Sec. 14. (a) In each even-numbered year, the bureau shall issue a sixty (60) day notice of expiration and a license renewal application in accordance with IC 25-1-5-4 to each optometrist licensed in Indiana. The application shall be mailed to the last known address of the optometrist and shall contain spaces for the insertion of the licensee's name, address, date, and number of the license, and such other information and questions as the board considers necessary. The licensee shall complete, sign, and return the application for license renewal, together with a fee set by the board under section 1 of this chapter, before April 1 of each even-numbered year.

(b) Upon the receipt of the application and fee, and upon the same being properly verified, the board shall issue a renewal of license.

(c) The payment of the renewal fee must be made on or before April 1 of each even-numbered year. The applicant's license expires and becomes invalid if the applicant has not paid the renewal fee by April 1 of each even-numbered year. The license shall be reinstated by the board up to three (3) years after its expiration if the applicant for reinstatement meets the requirements under IC 25-1-8-6.

(d) Reinstatement of an expired license after the expiration of the three (3) year period provided in subsection (c) is dependent upon reexamination of the applicant by the board.

(e) The board may classify a license as inactive if the board receives written notification from a licensee stating that the licensee will not maintain an office or practice optometry in Indiana. The renewal fee for an inactive license is one-half (1/2) the license renewal fee set by the board under section 1 of this chapter.

(f) The holder of an inactive license is not required to fulfill continuing education requirements set by the board. The board may issue a license to the holder of an inactive license if the applicant:

- (1) pays the renewal fee set by the board under section 1 of this chapter;
- (2) pays the reinstatement fee set by the board under section 1 of this chapter; and
- (3) subject to IC 25-1-4-3, attests that the applicant obtained the continuing education required by the board under section 1 of this chapter for each year, or portion of a year during which the applicant's license has been classified as inactive.

(Formerly: Acts 1907, c. 187, s. 16; Acts 1925, c. 193, s. 1; Acts 1929, c. 45, s. 2; Acts 1935, c. 38, s. 9; Acts 1972, P.L. 187, SEC. 1; Acts 1973, P.L. 258, SEC. 2.) As amended by Acts 1977, P.L. 172, SEC. 34; Acts 1981, P.L. 229, SEC. 1; Acts 1981, P.L. 222, SEC. 181; P.L. 169-1985, SEC. 82; P.L. 149-1987, SEC. 70; P.L. 48-1991, SEC. 43; P.L. 269-2001, SEC. 24.

IC 25-24-1-14.1 Continuing professional education; renewal of license

Sec. 14.1. No biennial renewal license shall be issued by the board until the applicant submits proof satisfactory to the board that subsequent to the issuance of his license, or last renewal thereof, he has completed continuing professional education, including postgraduate studies, institutes, seminars, lectures, conferences, workshops, and such other forms of continuing professional education as may be approved by the board. The number of hours and other requirements relating to this section shall be established by the board.

(Formerly: Acts 1973, P.L. 259, SEC. 1.) As amended by Acts 1977, P.L. 172, SEC. 35; Acts 1981, P.L. 229, SEC. 2.

IC 25-24-1-15 Repealed

(Repealed by Acts 1981, P.L. 222, SEC. 296.)

IC 25-24-1-15.1 Repealed

(Repealed by P.L. 152-1988, SEC. 30.)

IC 25-24-1-16 Repealed

(Repealed by Acts 1981, P.L. 222, SEC. 296.)

IC 25-24-1-17 Specific violations

Sec. 17. The following are unlawful and a violation of this chapter:

- (1) For any person or persons to open an office for the purpose of practicing optometry in this state, or to announce to the public in any way an intention to practice optometry in any county in this state, without first having obtained a license from the board.
- (2) For any person or persons, except a licensed optometrist or optometrists under this

chapter whose licenses have not been revoked or lapsed, to hold himself out by the use of any sign, newspaper, advertisement, pamphlet, circular, or any other means as qualified to practice optometry.

(3) For any person or persons, except a licensed optometrist or optometrists under this chapter whose licenses have not been revoked or lapsed, to have possession of any trial lenses, trial frames, graduated test cards, or other appliances or instruments used in the practice of optometry for the purpose of rendering assistance to patrons in the selection of contact lenses, lenses, or eyeglasses, or to sell ophthalmic lenses or to replace broken contact lenses or lenses in eyeglasses except upon the prescription of a regularly licensed optometrist, or a physician and surgeon exempted by this chapter. An ophthalmic lens, within the meaning of this chapter, is any lens which has a spherical or cylindrical or prismatic power or value and is ground pursuant to a prescription.

(4) For any person, not licensed under this chapter or who has not paid the annual renewal fee as in this chapter provided to be paid, to practice optometry as defined in this chapter.

(Formerly: Acts 1907, c.187, s.18; Acts 1929, c.45, s.3; Acts 1935, c.38, s.12.) As amended by Acts 1977, P.L.172, SEC.38; P.L.252-1983, SEC.1.

IC 25-24-1-18 Violations

Sec. 18. A person who violates this chapter commits a Class B misdemeanor.

(Formerly: Acts 1907, c.187, s.19; Acts 1913, c.359, s.7; Acts 1929, c.45, s.4.) As amended by Acts 1978, P.L.2, SEC.2544.

IC 25-24-1-19 Injunction of violations

Sec. 19. (a) Whenever it appears to the board that any person or persons are engaged in the illegal practice of optometry as defined by this chapter, or that any person or persons are engaged in the practice of optometry without a license as required by this chapter, or that any person or persons are engaged in the practice of optometry in violation of this chapter, then the board, may, in addition to any other remedies provided for in this chapter, bring an action in the name of the state, on the relation of the board, against such person or persons, or against any other person or persons concerned in or in any way participating in such illegal practice of optometry as defined by this chapter, or against any person or persons engaged in the practice of optometry without a license as required by this chapter, or against any person or persons engaged in the practice of optometry in violation of this chapter, to enjoin such person or persons, or such other person or persons:

- (1) from continuing the illegal practice of optometry as defined by this chapter;
- (2) from engaging in the practice of optometry without a license as required by this chapter;
- (3) from engaging in the practice of optometry in violation of this chapter; or
- (4) from doing any other act or acts in furtherance thereof.

(b) In an action under subsection (a), a judgment may be entered awarding such injunction as may be proper.

(Formerly: Acts 1907, c.187, s.19a; Acts 1935, c.38, s.13.) As amended by Acts 1977, P.L.172, SEC.39; P.L.169-1985, SEC.84.

IC 25-24-1-20 Certificates deemed licenses

Sec. 20. All certificates issued by the Indiana state board of registration and examination in optometry issued prior to May 1, 1977, shall be deemed to be licenses for the practice of optometry. All applications for the practice of optometry and all renewal notices sent for the practice of optometry in Indiana shall be for licenses and not for certificates of registration. For the purposes of this chapter, all certificates of registration and renewals for certificates of registration for the practice of optometry shall be the same as licenses and renewals for licenses issued subsequent to May 1, 1977.

As added by Acts 1977, P.L.172, SEC.40.

Chapter 2. Further Licensing Requirements – Establishment of Training Program and Special Fee.

25-24-2-1 Minimum requirements; disciplinary action in another state

25-24-2-2 Program for training of optometrists

25-24-2-3 Additional fees for university support

IC 25-24-2-1 Minimum requirements; disciplinary action in another state

Sec. 1. (a) The minimum requirements which must be fulfilled before an applicant will be permitted to take an examination for a license to practice optometry in Indiana are as follows:

- (1) Applicant must be at least eighteen (18) years of age.
- (2) Applicant must not have a conviction for:
 - (A) an act which would constitute a ground for disciplinary sanction under IC 25-1-9; or
 - (B) a crime that has a direct bearing on the applicant's ability to practice competently.
- (3) Applicant must be a graduate of a commissioned high school.
- (4) Applicant must be a graduate from a college of optometry under one (1) of the following conditions:

(A) Graduation prior to March 5, 1951, or attendance at or matriculation in a college of optometry whose requirements for graduation were equivalent to those required by the Indiana state board of registration and examination in optometry at the time of such matriculation.

(B) Two (2) years of preoptometry or two (2) years of premedicine in a college of arts and science whose credits will be accepted by a university having a college or school of optometry, and at least four (4) years of optometry in a college of optometry using university standards.

(b) The board may not issue a license to an applicant who has been disciplined by the licensing entity of another state or jurisdiction, if it appears to the satisfaction of the board that the disciplinary action taken against the applicant by the licensing entity of the other state or jurisdiction was warranted due to the applicant's inability to practice optometry without endangering the public.

(Formerly: Acts 1951, c.190, s.1; Acts 1972, P.L.187, SEC.2; Acts 1973, P.L.252, SEC.11.) As amended by Acts 1981, P.L.222, SEC.183; Acts 1982, P.L.113, SEC.63; P.L.169-1985, SEC.85; P.L.152-1988, SEC.20.

IC 25-24-2-2 Program for training optometrists

Sec. 2. There is hereby created a program for the training of optometrists at Indiana University, said program to be established by the trustees of said University and to be effective when adequate funds for the establishment of said program are made available by the optometrists of the state of Indiana through the Indiana Optometric Association, Inc., or otherwise.

(Formerly: Acts 1951, c.190, s.2.)

IC 25-24-2-3 Additional fees for university support

Sec. 3. In addition to the biennial licensure fee provided for by IC 25-24-1-1, each licensed optometrist, at the time of payment of the biennial licensure fee each even-numbered year, shall pay to the health professions bureau an additional fee of thirty-four dollars (\$34), which shall be deposited in an optometry school account of the state general fund, and all such fees so deposited shall, before the following July 2, be paid to Indiana University to be used by it for the advancement of optometrical research and the maintenance and support of the department in which the science of optometry is taught at the university. A sufficient amount to pay the same is appropriated annually out of such account in the general fund of the state treasury not otherwise appropriated.

(Formerly: Acts 1951, c.190, s.3.) As amended by Acts 1977, P.L.172, SEC.41; Acts 1981, P.L.229, SEC.3; Acts 1981, P.L.222, SEC.184; P.L.169-1985, SEC.86.

TITLE 852 INDIANA OPTOMETRY BOARD

This is an UNOFFICIAL version of the Indiana Optometry Board administrative rules prepared by the Indiana Professional Licensing Agency. An official version of the code should be available through your public library and can be accessed on the Internet at <http://www.in.gov/legislative/iac/title852.html>. 10/2005

NOTE: Originally adopted by the Indiana State Board of Registration and Examination in Optometry. Name changed by P.L. 169-1985, SECTION 79, effective July 1, 1985.

ARTICLE 1. GENERAL PROVISIONS

Cited in: 852 IAC 1-12-7; 852 IAC 1-16-1

- Rule 1. Educational Requirements *(Repealed)*
- Rule 1.1 Qualifications of Applicants
- Rule 2. Reciprocity *(Repealed)*
- Rule 2.1 Reciprocity
- Rule 3. Rules of Practice**
- Rule 4. Use of Assumed Name *(Repealed)*
- Rule 5. Duty Concerning Prescriptions *(Repealed)*
- Rule 5.1 Duty Concerning Prescriptions in Optometric Practice
- Rule 6. Professional Identification
- Rule 7. Continuing Education for Renewal of License
- Rule 8. Board Examination
- Rule 9. Notification of Practice Location *(Repealed)*
- Rule 10. Fees
- Rule 11. Competent Practice of Optometry; Standards
- Rule 12. Professional Conduct; Standards
- Rule 13. Revocation or Suspension of License
- Rule 14. Reinstatement
- Rule 15. Notification of Practice Location
- Rule 16. Continuing Education for Renewal of License

Rule 1. Educational Requirements *(Repealed)*

(Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509)

Rule 1.1. Qualifications of Applicants

- 852 IAC 1-1.1-1 Requirements for taking examination *(Repealed)*
- 852 IAC 1-1.1-2 Nonaccredited school graduates; admission to examination *(Repealed)*
- 852 IAC 1-1.1-3 Application form
- 852 IAC 1-1.1-4 Applicant fees, transcripts, examination scores, and photographs
- 852 IAC 1-1.1-5 Information not received; effect
- 852 IAC 1-1.1-6 Failure to appear for examination; forfeiture of fees *(Repealed)*

852 IAC 1-1.1-1 Requirements for taking examination *(Repealed)*

Sec. 1. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-1.1-2 Nonaccredited school graduates; admission to examination *(Repealed)*

Sec. 2. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-1.1-3 Application form

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 3. The application shall be completed on a form furnished by the board and filed with the board. (*Indiana Optometry Board; 852 IAC 1-1.1-3; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-1.1-4 Applicant fees, transcripts, examination scores, and photographs

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 4. (a) Each applicant shall submit the following information:

(1) The examination fee required by 852 IAC 1-10-1.

(2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school.

(3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.

(4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."

(b) The Indiana optometry board adopts the procedures and standards of the Council on Optometric Education for approval of schools of optometry and will only accept graduates of optometry schools accredited by the council as applicants for licensure, provided all other requirements are met.

(c) The document entitled "Accreditation Manual: Professional Optometric Degree Programs", adopted by the Accreditation Council on Optometric Education (formerly known as the Council on Optometric Education of the American Optometric Association or COE), effective July 1, 1994, and updated January 1, 2000, is hereby incorporated by reference and made applicable to this title. A copy of the document may be purchased by contacting the Accreditation Council on Optometric Education, American Optometric Association, 243 North Lindbergh Boulevard, St. Louis, Missouri 63141 or the bureau. The document is also available on the Internet at www.theaoo.org. (*Indiana Optometry Board; 852 IAC 1-1.1-4; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 1, 1981, 9:15 a.m.: 4 IR 2026; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1373; errata, 9 IR 2064; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2333; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Jan 16, 2003, 10:46 a.m.: 26 IR 1944*)

852 IAC 1-1.1-5 Information not received; effect

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 5. (a) An application may be denied or deferred if any of the required information has not been received.

(b) An applicant who applies for licensure under IC 25-24-1-3 bears the burden of proving that the requirements of the state in which the applicant currently is licensed are equivalent to those requirements set forth in section 4 of this rule. The applicant shall submit documentation required by section 4 of this rule, as well as any other documentation required by the board to make a determination as to whether the requirements of the other state are equivalent to those set forth in section 4 of this rule.

(c) An application shall be considered abandoned if the applicant does not complete the requirements for licensure within one (1) year from the date on which the application was filed. An application submitted subsequent to an abandoned application shall be treated as a new application. (*Indiana Optometry Board; 852 IAC 1-1.1-5; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 21, 1992, 9:00 a.m.: 16 IR 724; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-1.1-6 Failure to appear for examination; forfeiture of fees (Repealed)

Sec. 6. (*Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377*)

Rule 2. Reciprocity (Repealed)

(*Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509*)

Rule 2.1. Reciprocity

852 IAC 1-2.1-1 Requirements for license by reciprocity *(Repealed)*

852 IAC 1-2.1-2 Application file; contents

852 IAC 1-2.1-3 Personal Interview *(Repealed)*

852 IAC 1-2.1-4 Written examination

852 IAC 1-2.1-5 Failing examination; effect on license by reciprocity *(Repealed)*

852 IAC 1-2.1-1 Requirements for license by reciprocity *(Repealed)*

Sec. 1. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-2.1-2 Application file; contents

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. An applicant for license by endorsement shall submit the following information:

(1) The fee required by 852 IAC 1-10-1.

(2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school.

(3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.

(4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."

(5) A statement from the appropriate agency in each state where the applicant has been licensed, certifying whether or not disciplinary proceedings have ever been initiated or are presently pending against the applicant.

(6) A statement from the appropriate agency in each state where the applicant has been licensed by examination, holds an active license, and from which the applicant is endorsing, certifying areas of examination, type of examination, pass-fail criteria, and the applicant's score in each area of examination.

(Indiana Optometry Board; 852 IAC 1-2.1-2; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1374; filed Dec 8, 1987, 9:45 a.m.: 11 IR 1292; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2334; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

852 IAC 1-2.1-3 Personal interview *(Repealed)*

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-2.1-4 Written examination

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An applicant for license by endorsement must pass a written examination on the Indiana optometry statute (IC 25-24) and rules (852 IAC). A score of 75 or above is passing. *(Indiana Optometry Board; 852 IAC 1-2.1-4; filed Jul 29, 1980, 9:35 am: 3 IR 1508; filed Feb 4, 1986, 2:22 pm: 9 IR 1374; filed Dec 8, 1987, 9:45 am: 11 IR 1293; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-2.1-5 Failing examination; effect on license by reciprocity *(Repealed)*

Sec. 5. *(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)*

Rule 3. Rules of Practice

852 IAC 1-3-1 Optometric procedures; patient records; "grossly incompetent"

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. (A) An optometrist will utilize the usual and normal clinical optometric procedures taught in the accredited schools and colleges of optometry approved by the Board and the clinical optometric procedures in which he demonstrated proficiency and mastery in order to obtain a certificate and license to practice optometry in the State of Indiana.

(B) An optometrist will maintain adequate and detailed patient records to describe and document his procedures, observations and the disposition of the case.

(C) The term "Grossly incompetent" as used in IC 25-24-1, Sec. 15 [*Repealed by P.L.222-1981, SECTION 296. See, IC 25-24-1-15.1 concerning standards of practice and disciplinary actions.*] shall include, but not be limited to, the failure to follow the procedures set forth in this rule, Rule No. 1, A and B [*subsections A and B of this rule*], and shall also include any conduct or practice which does not provide for a comprehensive optometric examination of the patient in a conscientious and diligent manner. (*Indiana Optometry Board; Rule 1; filed Nov 29, 1972, 3:00 pm: Rules and Regs. 1973, p. 685; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 4. Use of Assumed Name (*Repealed*)

(*Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881*)

Rule 5. Duty Concerning Prescriptions (*Repealed*)

(*Repealed by Indiana Optometry Board; filed Dec 22, 1987, 2:35 pm: 11 IR 1606*)

Rule 5.1. Duty Concerning Prescriptions in Optometric Practice

852 IAC 1-5.1-1 General responsibilities

852 IAC 1-5.1-1 General responsibilities

Authority: IC 25-24-1-1

Affected: IC 16-4-8-2; IC 25-24-1-1; IC 25-24-1-4

Sec. 1. (a) In the practice of optometry as defined by IC 25-24-1-4, an optometrist has a responsibility to:

- (1) properly examine the patient to determine the patient's ophthalmic needs;
- (2) prepare a proper prescription when indicated to adequately fulfill the patient's needs;
- (3) verify the optical materials resulting from the prescription in order to determine whether or not the optical materials meet the needs of the patient;
- (4) verify that any optical materials which have been dispensed as a result of the prescription meet the needs of the patient.

(b) If an optometrist prescribes contact lenses for a patient, the optometrist has a responsibility to:

- (1) perform all procedures required by subsection (a);
- (2) examine the patient and evaluate the contact lens with the contact lens on the eye;
- (3) be personally and directly involved with the follow-up care of the contact lens patient.

(c) Pursuant to IC 16-4-8-2(a), an optometrist must release contact lens information to a patient upon the patient's written request, but the information may be given in general terms.

For the purposes of IC 16-4-8-2(a) general terms at the minimum means:

- (1) specifying whether the materials are rigid or soft materials;
- (2) specifying the spectacle lens prescription.

(*Indiana Optometry Board; 852 IAC 1-5.1-1; filed Dec 22, 1987, 2:35 pm: 11 IR 1605; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 6. Professional Identification

852 IAC 1-6-1 Misleading identification as to license status

852 IAC 1-6-1 Misleading identification as to license status

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. With the exception of a not for profit corporation approved by the Board and/or optometric clinic operated in conjunction with and by an accredited optometry school approved by the Board, no optometrist shall practice in any office, location or place of practice where any name, names or professional identification on or about the door, window, wall, directory, or any sign or listing whatsoever, or in any manner used in connection therewith, shall indicate or tend to indicate by location or otherwise or give the impression to the public that an optometrist is directly or indirectly employed by or connected with or indicates that such office, location, or place of practice is owned, operated, supervised, staffed, directed or attended by any firm, person or corporation not certified and licensed to practice optometry in the State of Indiana. (*Indiana Optometry Board; Rule 4; filed Nov 29, 1972, 3:00 pm: Rules and Regs. 1973, p. 686; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 7. Continuing Education for Renewal of License

- 852 IAC 1-7-1 Establishment of number of hours required (*Repealed*)
- 852 IAC 1-7-1.1 Number of hours required (*Repealed*)
- 852 IAC 1-7-2 Recognition of certificate (*Repealed*)
- 852 IAC 1-7-2.1 Verification of attendance by licensee on state form 2758; sponsor verification (*Repealed*)
- 852 IAC 1-7-3 Exemptions (*Repealed*)
- 852 IAC 1-7-3.1 Deadline for reporting credits by licensee (*Repealed*)
- 852 IAC 1-7-4 Approval of programs (*Repealed*)
- 852 IAC 1-7-5 Penalty for noncompliance (*Repealed*)

852 IAC 1-7-1 Establishment of number of hours required (*Repealed*)

Sec. 1. (*Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848*)

852 IAC 1-7-1.1 Number of hours required (*Repealed*)

Sec. 1.1. (*Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738*)

852 IAC 1-7-2 Recognition of certificate (*Repealed*)

Sec. 2. (*Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848*)

852 IAC 1-7-2.1 Verification of attendance by licensee on state form 2758; sponsor verification (*Repealed*)

Sec. 2.1. (*Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881*)

852 IAC 1-7-3 Exemptions (*Repealed*)

Sec. 3. (*Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848*)

852 IAC 1-7-3.1 Deadline for reporting credits by licensee (*Repealed*)

Sec. 3.1. (*Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738*)

852 IAC 1-7-4 Approval of programs (*Repealed*)

Sec. 4. (*Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738*)

852 IAC 1-7-5 Penalty for noncompliance (*Repealed*)

Sec. 5. (*Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738*)

Rule 8. Board Examination

Cited in: 852 IAC 1-8-1

- 852 IAC 1-8-1 Definitions
 - 852 IAC 1-8-2 Written board examination; contents (*Repealed*)
 - 852 IAC 1-8-3 Clinical board examination; contents (*Repealed*)
 - 852 IAC 1-8-4 Interview (*Repealed*)
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852 IAC 1-8-5 Written examination; passing score *(Repealed)*
852 IAC 1-8-6 Examination; passing score; failure for second time; fee *(Repealed)*
852 IAC 1-8-7 Appeals *(Repealed)*

852 IAC 1-8-1 Definitions

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Board" means the Indiana optometry board.

(c) "Examination" means the examination for licensure given by the board. *(Indiana Optometry Board; 852 IAC 1-8-1; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1508; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1376; filed Nov 10, 1987, 9:33 a.m.: 11 IR 1293; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-8-2 Written board examination; contents *(Repealed)*

Sec. 2. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-3 Clinical board examination; contents *(Repealed)*

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-4 Interview *(Repealed)*

Sec. 4. *(Repealed by Indiana Optometry Board; filed Sep 1, 1981, 9:15 am: 4 IR 2027)*

852 IAC 1-8-5 Written examination; passing score *(Repealed)*

Sec. 5. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-5.1 Written examination; passing score

Authority: IC 25-24-1-1
Affected: IC 25-24-1-3

Sec. 5.1. An applicant for license by examination must pass a written examination on the Indiana optometry statute (IC 25-24) and rules (852 IAC). A score of 75 or above is passing. *(Indiana Optometry Board; 852 IAC 1-8-5.1; filed Feb 4, 1986, 2:22 pm: 9 IR 1376; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)*

852 IAC 1-8-6 Examination; passing score; failure for second time; fee *(Repealed)*

Sec. 6. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

852 IAC 1-8-7 Appeals *(Repealed)*

Sec. 7. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

Rule 9. Notification of Practice Location *(Repealed)*

(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

Rule 10. Fees

852 IAC 1-10-1 Fees
852 IAC 1-10-2 Biennial renewal fees; used for university support *(Expired)*

852 IAC 1-10-1 Fees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 1. The following fees shall apply to all licensed optometrists and candidates:

Application/issuance	\$200
License renewal (April 1 of each even-numbered year)	\$100 biennially
Inactive license renewal (April 1 of each even-numbered year)	\$50 biennially
Renewal fees due Indiana University	\$34 biennially
Verification of licensure	\$10
Duplicate wall license	\$10
Reinstatement of inactive license	\$50

(Indiana Optometry Board; 852 IAC 1-10-1; filed Jul 12, 1985, 3:48 p.m.: 8 IR 2038; filed May 11, 1987, 9:00 a.m.: 10 IR 1876; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; filed Apr 19, 1991, 3:05 p.m.: 14 IR 1728; filed May 20, 1996, 3:00 p.m.: 19 IR 2880; readopted filed Jan 7, 2002, 10:00 a.m.: 25 IR 1732)

852 IAC 1-10-2 Biennial renewal fees; used for university support

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 2. Thirty-four dollars (\$34) of the biennial renewal fee for an active and an inactive license is submitted by the health professions bureau to the Indiana University School of Optometry as provided by IC 25-24-2-3. *(Indiana Optometry Board; 852 IAC 1-10-2; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; readopted filed Dec 4, 2001, 10:15 a.m.: 25 IR 1732)*

Rule 11. Competent Practice of Optometry; Standards

Cited in: 852 IAC 1-12-7.

852 IAC 1-11-1 Duties and responsibilities of optometrists

852 IAC 1-11-1 Duties and responsibilities of optometrists

Authority: IC 25-24-1-1

Affected: IC 25-24-1-4

Sec. 1. An optometrist shall conduct his practice in accordance with the following standards, including but not limited to:

(1) A licensed optometrist is professionally competent if in the practice of optometry, he/she exercises the reasonable care and diligence ordinarily exercised by members of his/her profession in similar cases under like conditions.

(2) A practitioner has a duty and responsibility to employ the necessary means in order to obtain a complete optometric diagnosis of the human eye, visual system, or associated structures as specified by IC 25-24-1-4.

(3) A practitioner has a duty and responsibility as part of a complete optometric diagnosis to maintain comprehensive patient records including, but not limited to, systemic and ocular health, medications, allergies, family history, prior eye care, systemic and ocular problems, examination results, optometric treatments, drugs, agents or other devices administered, prescribed and/or dispensed, including all follow-up examinations and treatments.

(Indiana Optometry Board; 852 IAC 1-11-1; filed May 11, 1987, 9:00 am: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238)

Rule 12. Professional Conduct; Standards

Cited in: 852 IAC 1-12-7.

852 IAC 1-12-1	Duties of optometrist
852 IAC 1-12-2	Fees for services
852 IAC 1-12-3	Responsibility for employees
852 IAC 1-12-4	Referral
852 IAC 1-12-5	Discontinuation of practice
852 IAC 1-12-6	Advertising
852 IAC 1-12-7	Failure to comply

852 IAC 1-12-1 Duties of optometrist

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. An optometrist in the conduct of his practice of optometry shall abide by, and comply with, the following standards of professional conduct: (a) An optometrist shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment and prognosis, and of all records relating thereto, about which the optometrist may learn or otherwise be informed during the course of, or as a result of, the patient-optometrist relationship. Information about a patient shall be disclosed by an optometrist when required by law or when authorized by the patient or those responsible for the patient's care.

(b) An optometrist shall give a truthful, candid and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where an optometrist reasonably determines that the information is or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where an optometrist reasonably determines that the information would be detrimental to the physical or mental health of those responsible for the patient's care.

(c)(1) The optometrist shall give reasonable written notice to an active patient or those responsible for the patient's care when the optometrist withdraws from a case so that another optometrist may be employed by the patient or by those responsible for the patient's care. An optometrist shall not abandon a patient. As used in this section, "active patient" means a person whom the optometrist has examined, cared for, or otherwise consulted with, during the two-year period prior to retirement, discontinuation of practice of optometry, or leaving or moving from the community.

(2) An optometrist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his patient all records, test results, histories, diagnoses, files and information relating to said patient which are in the optometrist's custody, possession or control, or copies of such documents hereinbefore described.

(d) An optometrist shall exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved scientific principles, methods, treatments, professional theory and practice.

(e) An optometrist shall not represent, advertise, state or indicate the possession of any degree recognized as the basis for licensure to practice optometry unless the optometrist is actually licensed on the basis of such degree in the state(s) in which he practices.

(f) An optometrist shall obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care.

(g) An optometrist who has personal knowledge based upon a reasonable belief that another optometrist has engaged in illegal, unlawful, incompetent or fraudulent conduct in the practice of optometry shall promptly report such conduct to the board. Further, an optometrist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of optometry shall promptly report such conduct to the board. (*Indiana Optometry Board; 852 IAC 1-12-1; filed May 11, 1987, 9:00 am: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-2 Fees for services

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Fees charged by an optometrist for his professional services shall compensate the optometrist only for the services actually rendered.

(b) An optometrist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made, and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(c) An optometrist shall not pay or accept compensation from a practitioner for referral of a patient. (*Indiana Optometry Board; 852 IAC 1-12-2; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-3 Responsibility for employees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. An optometrist shall be responsible for the conduct of each and every person employed by the optometrist for every action or failure to act by said employee or employees in the course of said employee(s) relationship with said optometrist; provided, however, that an optometrist shall not be responsible for the action of persons he may employ whose employment by the optometrist does not relate directly to the optometrist's practice of optometry. (*Indiana Optometry Board; 852 IAC 1-12-3; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-4 Referral

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An optometrist may, whenever the optometrist believes it to be beneficial to the patient, send or refer a patient to a qualified specific health care provider. Prior to any such referral, however, the optometrist shall examine and/or consult with the patient to reasonably determine that a condition exists in the patient which would be within the scope of practice of the specific health care provider to whom the patient is referred. (*Indiana Optometry Board; 852 IAC 1-12-4; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-5 Discontinuation of practice

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5. (a) An optometrist, upon his retirement or upon discontinuation of the practice of optometry, or upon leaving or moving from a community, shall notify all of his active patients in writing, or by publication once a week for three (3) consecutive weeks, in a newspaper of general circulation in the community, that he intends to discontinue his practice of optometry in the community, and shall encourage his patients to seek the services of another licensed practitioner. The optometrist discontinuing his practice shall make reasonable arrangements with his active patients for the transfer of his records, or copies, thereof, to the succeeding practitioner or an optometric association approved by the board.

(b) Nothing provided in this section shall preclude, prohibit or prevent an optometrist from selling, conveying or transferring for valuable consideration, the optometrist's patient records to another licensed practitioner who is assuming his practice, provided that written notice is given to patients as provided in this section. (*Indiana Optometry Board; 852 IAC 1-12-5; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-6 Advertising

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 6. (a) An optometrist shall not, on behalf of himself, a partner, associate, shareholder in a professional corporation, or any other practitioner or specific health care provider affiliated with the optometrist, use, or participate in the use of, any form of public communication containing a false, fraudulent, materially misleading, deceptive statement or claim.

(b) In order to facilitate the process of informed selection of an optometrist by the public, an optometrist may advertise services through the public media including, but not limited to, a telephone directory, optometrists' directory, newspaper or other periodical, radio or television, or through a written communication not involving personal contact.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the optometrist, and a recording and transcript of the actual transmission shall be retained by the optometrist for a period of three (3) years from the last date of broadcast.

(d) If the optometrist advertises a fee for ophthalmic material, service, treatment, consultation, examination, or other procedure, the optometrist must provide that ophthalmic material, service, or procedure for no more than the fee advertised.

(e) Unless otherwise conspicuously specified in the advertisement, an optometrist who publishes or communicates fee information in a publication that is published more than one (1) time per month shall be bound by any representation made therein for a period of thirty (30) days after the publication date. An optometrist who publishes or communicates fee information in a publication that is published once a month or less frequently shall be bound by any representation made therein until the publication of the succeeding issue unless a shorter time is conspicuously specified in the advertisement. An optometrist who publishes or communicates fee information in a publication which has no fixed date for publication for a succeeding issue shall be bound by any representation made therein for one (1) year, unless a shorter period of time is conspicuously specified in the advertisement.

(f) Unless otherwise specified in the advertisement, an optometrist who broadcasts fee information by radio, cable or television shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) An optometrist who places an advertisement using a corporation name or tradename is required to identify the location or locations at which the optometric service will be provided. The name of the optometrist who will provide the optometric services must be identified at that location. (*Indiana Optometry Board; 852 IAC 1-12-6; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-12-7 Failure to comply

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 7. Failure to comply with the standards of professional conduct and competent practice of optometry specified in 852 IAC 1-11 and 852 IAC 1-12 may result in disciplinary proceedings against the offending optometrist. All optometrists licensed in Indiana shall be responsible for having knowledge of the standards of conduct and competent practice established by IC 25-24 and 852 IAC 1. (*Indiana Optometry Board; 852 IAC 1-12-7; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 13. Revocation or Suspension of License

Cited in: 852 IAC 1-13-1.

852 IAC 1-13-1 License revocation; duties of licensees

852 IAC 1-13-2 License suspension; duties of licensees

852 IAC 1-13-1 License revocation; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. In any case where a practitioner's license has been revoked, said person shall do the following:

(1) Promptly notify, or cause to be notified in the manner and method specified by the board, all patients then in the care of the practitioner, or those persons responsible for the patient's care, of the revocation and of the practitioner's consequent inability to act for or on their behalf in the practitioner's professional capacity. Such notice shall advise all patients to seek the services of another practitioner in good standing of their own choice.

(2) Promptly notify, or cause to be notified, all health care facilities where such practitioner has privileges, of the revocation accompanied by a list of all patients then in the care of such practitioner.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure:

(A) Indiana family and social services administration.

(B) Social security administration.

(C) The boards or equivalent agency of each state in which the person is licensed to practice optometry.

(D) The Association of Regulatory Boards of Optometry.

(4) Make reasonable arrangements with said practitioner's active patients for the transfer of all patient records, studies and test results, or copies thereof, to a succeeding practitioner employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license revocation, the practitioner shall file an affidavit with the board showing compliance with the provisions of the revocation order and with this rule, which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the practitioner is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to filing any application for licensure.

(*Indiana Optometry Board; 852 IAC 1-13-1; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Feb 10, 2003, 3:30 p.m.: 26 IR 2373*)

852 IAC 1-13-2 License suspension; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) In any case where a person's license has been suspended, said person shall, within thirty (30) days from the date of the order of suspension, file with the board an affidavit that confirms the following:

(1) All active patients then under the practitioner's care have been notified in the manner and method specified by the board of the practitioner's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another practitioner of good standing of their own choice.

(2) All health care facilities where such practitioner has privileges have been informed of the suspension order.

(3) Reasonable arrangements were made for the transfer of patient records, studies and test results, or copies thereof, to a succeeding practitioner employed by the patient or those responsible for the patient's care.

(4) The following organizations and governmental agencies have been notified in writing, by first class mail, of the suspension of the practitioner's license:

(A) Indiana family and social services administration.

(B) Social Security Administration.

(C) The boards or equivalent agency of each state in which the person is licensed to practice optometry.

(D) The Association of Regulatory Boards of Optometry.

(b) Proof of compliance with this section shall be a condition precedent to reinstatement. (*Indiana Optometry Board; 852 IAC 1-13-2; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Feb 10, 2003, 3:30 p.m.: 26 IR 2374*)

Rule 14. Reinstatement

852 IAC 1-14-1 Reinstatement

852 IAC 1-14-2 Petitions for reinstatement; filing fee

852 IAC 1-14-1 Reinstatement

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. No person whose license to practice optometry in Indiana has been suspended shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the board that:

(1) the person desires in good faith to obtain restoration of such license;

(2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;

(3) the person has not engaged in the practice of optometry or has attempted to do so from the date discipline was imposed;

(4) the person has complied fully with the terms, if any, of the order for suspension or revocation;

(5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;

(6) the person has a proper understanding of an attitude toward the standards that are imposed by statute or rule upon persons holding such license as had been suspended and the person can be reasonably expected to conduct himself in conformity with such standards;

(7) the person can be safely recommended to the public and applicable profession as a person fit to be reinstated and is able to practice his profession with reasonable skill and safety to patients;

(8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;

(9) the person has successfully taken and completed such written examinations and tests as may be required by the board, and has completed such professional training or education under a preceptorship as may be required.

(*Indiana Optometry Board; 852 IAC 1-14-1; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-14-2 Petitions for reinstatement; filing fee

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Any person whose license has been suspended may apply for reinstatement by filing with the board a petition stating that the requirements of 852 IAC 1-14-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the board together with a filing fee of four hundred dollars (\$400).

(b) Upon the filing of such petition and payment of the filing fee, the board shall schedule a hearing. After the hearing, the board shall determine whether the petitioner has met the requirements set forth in the disciplinary order, and shall determine whether, as a condition to reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The board shall thereafter, upon satisfactory compliance with 852 IAC 1-12-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or reinstating the license to the petitioner.

(c) Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the board. In no event will there be any refund or rebate of any part of the filing fee. (*Indiana Optometry Board; 852 IAC 1-14-2; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 15. Notification of Practice Location

852 IAC 1-15-1 Professional sign; notification of public; facility requirements

852 IAC 1-15-2 Notification to board of practice location

852 IAC 1-15-3 Corporate practice; out of office

852 IAC 1-15-1 Professional sign; notification of public; facility requirements

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. (a) A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain a sign clearly visible to the public indicating the name or names of all practitioner(s) practicing at that location. The minimum requirements on the sign are practitioner's name and O.D. or optometrist. The sign may contain information to identify the area of practice within optometry, including low vision, contact lenses, family practice optometry, pediatric optometry, geriatric optometry, sports vision, industrial vision or other optometric specialties. A sign may not be misleading to the public as to the practitioner actually present and performing the services.

(b) A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain a safe and hygienic [*sic.*] facility adequately equipped to provide optometric services. (*Indiana Optometry Board; 852 IAC 1-15-1; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-15-2 Notification to board of practice location

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) A practitioner has a duty and responsibility to notify the board within thirty (30) days of the establishment or discontinuation of an office for the practice of optometry. An office will be considered any location where the practitioner regularly provides optometric services or any location where his name is presented to the public as practicing optometry.

(b) A practitioner may practice optometry in a hospital, health maintenance organization, licensed health care facility, public health clinic, clinic affiliated with a school of optometry or as a consultant to industry or educational facilities without the display of a professional sign, provided the practitioner has notified the board within thirty (30) days of initiating such services.

(c) A practitioner may provide optometric services outside his office or other location reported to the board whenever the best interests of the patient require services which cannot be delivered at a previously designated location. When services are regularly delivered at the same location, it must be reported to the board as a practice location. (*Indiana Optometry Board; 852 IAC 1-15-2; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

852 IAC 1-15-3 Corporate practice; out of office

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. A practitioner may not be employed by a nonprofessional corporation for the purpose of practicing optometry but may contract with a hospital, school of optometry, health maintenance organization, licensed health care facility, public health clinic, industry, educational facility or insurance company to provide independent optometric services. (*Indiana Optometry Board; 852 IAC 1-15-3; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238*)

Rule 16. Continuing Education for Renewal of License

Cited in: 852 IAC 1-16-2; 852 IAC 1-16-5

852 IAC 1-16-1 Continuing education requirements
852 IAC 1-16-2 Licensee responsibilities
852 IAC 1-16-3 Application for approval
852 IAC 1-16-4 Standards for approval
852 IAC 1-16-5 Penalty for noncompliance
852 IAC 1-16-6 Continuing education sources

852 IAC 1-16-1 Continuing education requirements

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1; IC 25-26-15

Sec. 1. (a) Thirty (30) hours of continuing education are required for license renewal.

(b) An optometrist who holds an optometric legend drug certificate issued under IC 25-26-15 may apply ten (10) hours of continuing education approved under 857 IAC 1-2 to renew an optometry license.

(c) Programs that have not been approved under this article will not be accepted as credit for license renewal.

(d) A licensee is not required to complete continuing education requirements for the year in which the initial license is issued.

(e) Continuing education credit units or clock hours must be obtained within the biennial renewal period and may not be carried over from one (1) licensure period to another.

(f) If a licensee is licensed in Indiana and any other state with a mandatory continuing education requirement, the Indiana optometry board will accept that requirement of the other state, provided the number of clock hours or credit units and the quality of the continuing education equal or exceed the Indiana requirement. (*Indiana Optometry Board; 852 IAC 1-16-1; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Feb 21, 1992, 4:00 p.m.: 15 IR 1221; filed Jan 26, 1995, 4:30 p.m.: 18 IR 1477; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-2 Responsibilities of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 2. (a) A licensee must certify completion of continuing education required by this rule at the time of license renewal on a form provided by the bureau.

(b) A licensee must retain verification of completion of continuing education required by this rule for four (4) years after the last renewal date.

(c) A licensee must present verification of completion of continuing education required by this rule at the request of the board. (*Indiana Optometry Board; 852 IAC 1-16-2; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-3 Application for approval

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 3. (a) The sponsoring organization or the attendee must file an application provided by the bureau. The application may contain the following information:

(1) Name of lecturer.

(2) Academic and professional background of lecturer.

- (3) Brief summary of content of program.
- (4) Date and location of program.
- (5) Number of clock hours of continuing education requested.
- (6) Name of the person or persons who will monitor attendance and the manner in which attendance will be monitored.
- (7) Any other pertinent information required by the board.

(b) As a condition to approval of programs, the sponsoring organization must agree to provide participants with a record of attendance and to retain records of attendance by participants for four (4) years from the date of the program. (*Indiana Optometry Board; 852 IAC 1-16-3; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1954; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-4 Standards for approval

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 4. The board will approve a course if it determines that the course will make a significant contribution to the professional competency of optometrists who enroll. In determining if a course meets this standard, the board will consider whether the following requirements are met:

- (1) The course has substantial content.
- (2) The course content directly relates to the professional practice of optometry. Practice management courses will not be approved by the board.
- (3) Each faculty member or lecturer who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject.
- (4) The physical setting for the course is suitable.
- (5) High quality written materials, including notes and outlines, are available to all optometrists who enroll at or prior to the time the course is offered.
- (6) The course is of sufficient length to provide a substantial educational experience. Courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience.
- (7) Appropriate educational methodology is used, including, but not limited to, the following:
 - (A) Prepared library packages.
 - (B) Courses of programmed instruction.
 - (C) Active participation and demonstration.
 - (D) Audio-visual materials.

(8) An adequate number of instructors is provided for the course. If audio-visual tapes are used as teaching materials, live presentations or discussion leaders must accompany the replaying of the tapes.

(*Indiana Optometry Board; 852 IAC 1-16-4; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-5 Penalty for noncompliance

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 5. The board will not issue a renewal license to a licensee who fails to comply with 852 IAC 1-16, except for an inactive license as provided by IC 25-24-1-14. (*Indiana Optometry Board; 852 IAC 1-16-5; filed Jul 23, 1987, 9:15 am: 10 IR 2738; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

852 IAC 1-16-6 Continuing education sources

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 6. (a) The continuing education requirement may be satisfied by participating in the following activities upon approval of the board:

- (1) Educational programs presented by professional optometric organizations.
 - (2) University courses taken beyond those required for initial licensure if the course content pertains to the professional practice of optometry.
 - (3) Educational programs approved by the Council on Optometric Practitioner Education.
 - (4) Other educational seminars, lectures, and workshops.
 - (5) Self-study, including the following:
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- (A) Journals and books.
- (B) Audio tapes.
- (C) Films and video tapes.
- (D) Writing articles for publication.
- (E) Internet on-line.

(b) In order to be accepted as continuing education for license renewal, self-study methods of presentation must include a written examination or postevaluation.

(c) Self-study continuing education shall be limited to three (3) hours biennially unless the practitioner provides evidence to the board that such a limitation poses an undue burden upon the practitioner or that the practitioner may not otherwise satisfy his or her continuing education requirements. (*Indiana Optometry Board; 852 IAC 1-16-6; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1107; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238*)

Rule 17. Limited License

852 IAC 1-17-1 Application file; contents
852 IAC 1-17-2 Written examination
852 IAC 1-16-3 Renewal of a limited license

852 IAC 1-17-1 Application file; contents

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3.2

Sec. 1. (a) An applicant for a limited license shall submit the following:

(1) An application filed on a form prescribed by the Indiana optometry board and provided by the health professions bureau.

(2) The fee required by 852 IAC 1-10-1.

(3) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school. If not in English, the applicant must provide an official translation.

(4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."

(5) A copy of the applicant's curriculum vitae.

(6) A statement from the dean at Indiana University which shall include the date of faculty appointment and subject or subjects being taught.

(7) Verification of licensure status provided to the board directly by the appropriate agency in each state or country where the applicant holds or has held a license to practice optometry.

(8) Verification of areas of examination, type of examination, pass-fail criteria, and the applicant's score in each area of the examination provided to the board directly by the state or country in which the applicant took the examination.

(b) The dean at Indiana University school of optometry may be contacted in order to validate the suitability of the applicant for a limited license. (*Indiana Optometry Board; 852 IAC 1-17-1; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561*)

852 IAC 1-17-2 Written examination

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. An applicant for a limited license must pass a written examination on the Indiana optometry statute (IC 25-24) and rules (this title). A score of seventy-five (75) or above is required. (*Indiana Optometry Board; 852 IAC 1-17-2; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561*)

852 IAC 1-17-3 Renewal of a limited license

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. All limited license holders are required to complete thirty (30) hours of continuing education every biennium as specified in 852 IAC 1-16-1. (*Indiana Optometry Board; 852 IAC 1-17-3; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561*)

Chapter 15

Indiana Optometric Legend Drug Prescription Advisory Committee

This is an UNOFFICIAL version of the Indiana Board of Pharmacy statute prepared by the Indiana Professional Licensing Agency. An official version of the code should be available through your public library and can be accessed on the internet at <http://www.in.gov/legislative/ic/code/title25/ar26/ch15.html>.

10/2005

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IC 25-26-15-1 "Associated structures of the eye" defined

Sec. 1. As used in this chapter, "associated structures of the eye" means the:

- (1) eyelids;
- (2) eyebrows;
- (3) conjunctiva;
- (4) lachrymal apparatus; and
- (5) orbital tissues.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-2 "Administer" defined

Sec. 2. As used in this chapter, "administer" means the direct application of a legend drug by an optometrist to a patient.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-3 "Board" defined

Sec. 3. As used in this chapter, "board" means the Indiana board of pharmacy established under IC 25-26-13-3.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-4 "Committee" defined

Sec. 4. As used in this chapter, "committee" refers to the optometric legend drug prescription advisory committee established under section 12 of this chapter.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-5 "Diagnostic legend drug" defined

Sec. 5. As used in this chapter, "diagnostic legend drug" means a pharmacological agent approved by the committee that is

used in the examination of the human eye for the purpose of detecting abnormalities.
As added by P.L.147-1991, SEC.7.

IC 25-26-15-6 "Dispense" defined

Sec. 6. As used in this chapter, "dispense" means to deliver a legend drug to an ultimate user by or pursuant to a lawful order of an optometrist. The term includes the:

- (1) prescribing;
- (2) administering;
- (3) packaging;
- (4) labeling; or
- (5) compounding;

necessary to prepare the drug for delivery.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-7 "Legend drug" defined

Sec. 7. As used in this chapter, "legend drug" has the meaning set forth in IC 16-18-2-199. The term does not include controlled substances as defined in IC 35-48-1.

As added by P.L.147-1991, SEC.7. Amended by P.L.2-1993, SEC.148.

IC 25-26-15-8 "Optometrist" defined

Sec. 8. As used in this chapter, "optometrist" means a person licensed as an optometrist under IC 25-24-1.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-9 "Person" defined

Sec. 9. As used in this chapter, "person" means an individual.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-10 "Prescription" defined

Sec. 10. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist or, for electronically transmitted orders, recorded in an electronic format from an optometrist to or for an ultimate user for a drug or device, containing:

- (1) the name and address of the patient;
- (2) the date of issue;
- (3) the name and strength or size (if applicable) of the drug or device;
- (4) the amount to be dispensed (unless indicated by directions and duration of therapy);
- (5) adequate directions for the proper use of the drug or device by the patient;
- (6) the name and certification number of the prescribing optometrist; and
- (7) if the prescription:
 - (A) is in written form, the signature of the optometrist; or
 - (B) is in electronic form, the electronic signature of the optometrist.

As added by P.L.147-1991, SEC.7. Amended by P.L.288-2001, SEC.5; P.L.204-2005, SEC.18.

IC 25-26-15-11 "Therapeutic legend drug" defined

Sec. 11. As used in this chapter, "therapeutic legend drug" means a pharmacological agent that is used in the treatment of a diagnosed condition of the:

- (1) human eye; or
- (2) associated structures of the human eye.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-12 Optometric legend drug prescription advisory committee; establishment

Sec. 12. (a) The Indiana optometric legend drug prescription advisory committee is established.

(b) The committee consists of five (5) members as follows:

- (1) One (1) optometrist appointed by the Indiana optometry board from among its members.
- (2) One (1) optometrist who is:

- (A) appointed by the governor; and
 - (B) holds a license to practice optometry in Indiana.
 - (3) One (1) pharmacist appointed by the board from among its members.
 - (4) One (1) physician who is:
 - (A) trained in the diagnosis and treatment of diseases of the eye;
 - (B) appointed by the governor; and
 - (C) hold an unlimited license to practice medicine in Indiana.The physician may be a member of the medical licensing board.
 - (5) One (1) pharmacologist who is:
 - (A) appointed by the governor; and
 - (B) actively engaged in teaching pharmacology at a higher education institution (as defined under IC 20-12-5.5-1) or a private institution of higher education (as defined under IC 20-12-63-3).
 - (c) A member of the committee appointed by a board serves a one (1) year term. A member appointed by the governor serves a four (4) year term.
 - (d) A member of the committee may be removed for cause by the appointing authority.
 - (e) If a vacancy occurs on the committee, the authority appointing the vacating member shall appoint a successor to serve the unexpired term of the vacating member.
 - (f) The committee shall annually elect from its members the following:
 - (1) One (1) member to serve as chairman of the committee.
 - (2) One (1) member to serve as secretary of the committee.
 - (g) No member shall serve consecutive terms as chairman of the committee. The chairman may not be succeeded as chairman by a member of the same profession.
 - (h) The secretary of the committee shall call a meeting of the committee upon the request of the chairman or the written request of two (2) members.
 - (i) A meeting of the committee may be conducted at any time and at any place in Indiana convenient for conducting the business of the committee. Sufficient advance notice of each committee meeting must be given to allow all members to attend, unless notice of the meeting is waived in writing by all of the committee members.
 - (j) Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the committee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.
 - (k) Three (3) members of the committee constitute a quorum.
- As added by P.L.147-1991, SEC.7.*

IC 25-26-15-13 Duties of committee

Sec. 13. The committee shall do the following:

- (1) Adopt rules under IC 4-22-2 to do the following:
 - (A) Establish a formulary of legend drugs that may be prescribed, dispensed, or administered by an optometrist.
 - (B) Set fees described in IC 25-1-8.
 - (C) Carry out this chapter.
- (2) Establish education and training requirements in ocular pharmacology required for certification to do the following:
 - (A) Administer therapeutic legend drugs.
 - (B) Dispense legend drugs.
 - (C) Prescribe legend drugs.
- (3) Establish continuing education requirements for renewal of the certificate issued under this chapter.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-14 Formulary; legend drugs

Sec. 14. (a) The formulary established under section 13 of this chapter shall include legend drugs that:

- (1) may be independently prescribed by an optometrist; or
 - (2) must be dependently prescribed by an optometrist.
 - (b) If a legend drug is designated in the formulary as one (1) that must be dependently prescribed, the formulary must designate:
 - (1) those legend drugs for which the optometrist must only notify the patient's physician that the optometrist is prescribing the legend drug; and
 - (2) those legend drugs for which the optometrist must consult with the patient's physician prior to the prescribing the legend drug.
 - (c) If the patient has no physician, the optometrist must document such in the patient's file.
-

(d) If the legend drug is designated in the formulary as a legend drug that must be dependently prescribed, the optometrist shall indicate on the prescription that:

- (1) the patient's physician has been contacted; or
- (2) the patient has indicated to the optometrist that the patient has no physician.

(e) If the legend drug is designated in the formulary as a legend drug that may be independently prescribed, the optometrist may prescribe the legend drug without notifying the patient's physician.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-15 Issuance of certificates

Sec. 15. Upon the recommendation of the committee, the board shall issue a certificate to a licensed optometrist who:

- (1) applies; and
- (2) successfully fulfills all of the requirements of this chapter.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-16 Optometrists who administer, dispense, or prescribe legend drugs; requirements

Sec. 16. An optometrist who applies for a certificate to administer, dispense, and prescribe legend drugs must meet one (1) of the following requirements:

- (1) Do all of the following:

- (A) Apply in the form and manner prescribed by the committee.

- (B) Provide proof of education in ocular pharmacology from a school or college of optometry or medicine approved by the optometry board.

- (C) Pass the Treatment and Management of Ocular Disease (TMOD) examination that is sponsored by the International Association of Boards of Examiners in Optometry (IAB) and administered by the National Board of Examiners in Optometry.

- (D) Pay the fee established by the committee.

- (2) Do all of the following:

- (A) Apply in the form and manner prescribed by the committee.

- (B) Pay the fee established by the committee.

- (C) Provide proof that the applicant has obtained twenty (20) hours of continuing education in ocular pharmacology after January 1, 1991.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-17 License to practice optometry; certificates

Sec. 17. An applicant must hold a license to practice optometry in order to hold a certificate.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-18

Renewal of certificate

Sec. 18. The board shall renew a certificate issued under this chapter:

- (1) concurrently with the renewal of the optometrist's license to practice optometry;
- (2) upon payment of the renewal fee set by the committee; and
- (3) upon completion of continuing education requirements established under section 13 of this chapter.

As added by P.L.147-1991, SEC.7.

IC 25-26-15-19 Administration of legend drugs

Sec. 19. (a) Optometrists may administer topical diagnostic legend drugs limited to:

- (1) miotics;
- (2) mydriatics;
- (3) anesthetics; and
- (4) cycloplegics;

without holding a certificate issued under this chapter. These pharmaceutical agents may be applied in diagnostic procedures only as a part of an examination of the eye.

(b) The board may authorize optometrists holding a certificate issued under this chapter to:

- (1) administer for therapeutic use;
- (2) dispense; or
- (3) prescribe;

legend drugs that are included in the formulary established by the committee under section 13 of this chapter, in the treatment of

any condition of the eye or the associated structures of the eye.
As added by P.L.147-1991, SEC.7.

IC 25-26-15-20 Necessity of certification; administration of drugs; violation; offense

Sec. 20. (a) An optometrist may not:

- (1) administer, dispense, or prescribe therapeutic legend drugs; or
- (2) dispense or prescribe diagnostic legend drugs;

unless the optometrist is certified under this chapter.

(b) An optometrist may administer diagnostic legend drugs without obtaining a certificate under this chapter.

(c) A person who violates this chapter commits a Class A misdemeanor.

As added by P.L.147-1991, SEC.7.

TITLE 857

INDIANA OPTOMETRIC LEGEND DRUG PRESCRIPTION ADVISORY COMMITTEE

This is an UNOFFICIAL version of the Indiana Optometry Board administrative rules prepared by the Indiana Professional Licensing Agency. An official version of the code should be available through your public library and can be accessed on the Internet at <http://www.in.gov/legislative/iac/title857.html>.

February 2006

ARTICLE 1. CERTIFICATION

Rule 1. Definitions

857 IAC 1-1-1 Definitions

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 1. (a) All terms which are defined in IC 25-26-15 shall have the same meaning as they are so defined when used in this title.

(b) The definitions in this rule apply throughout this title. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-1-1; filed May 15, 1992, 5:00 p.m.: 15 IR 2249; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 1-1-2 "Bureau" defined

Authority: IC 25-26-15-13

Affected: IC 25-1-5-3; IC 25-26-15

Sec. 2. "Bureau" refers to the health professions bureau established under IC 25-1-5-3. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-1-2; filed May 15, 1992, 5:00 p.m.: 15 IR 2249; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

Rule 2. Continuing Education

857 IAC 1-2-1 Scope of rule

Authority: IC 25-26-15-13

Affected: IC 25-26-15-16; IC 25-26-15-18

Sec. 1. This rule establishes the requirements for continuing education both to obtain an Indiana optometric legend drug certificate under IC 25-26-15-16(2) and to renew a certificate under IC 25-26-15-18. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-2-1; filed May 15, 1992, 5:00 p.m.: 15 IR 2249; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 1-2-2 Course approval

Authority: IC 25-26-15-13

Affected: IC 25-26-15-16; IC 25-26-15-18

Sec. 2. (a) The sponsoring organization must file an application provided by the bureau for course work in ocular pharmacology. The application shall include the following:

- (1) Name of lecturer.
- (2) Academic and professional background of lecturer.
- (3) Brief summary of content of program.
- (4) Date and location of program.
- (5) Number of clock hours of continuing education requested.
- (6) Name of the person who will monitor attendance and the manner in which attendance will be monitored.
- (7) Any other pertinent information required by the committee.

(b) As a condition to approval of programs, the sponsoring organization must agree to provide participants with a record of attendance and to retain records of attendance by participants for four (4) years from the date of the program. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-2-2; filed May 15, 1992, 5:00 p.m.: 15 IR 2249; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 1-2-3 Standards for approval; length of approval time

Authority: IC 25-26-15-13

Affected: IC 25-26-15-16; IC 25-26-15-18

Sec. 3. (a) The committee approves the following courses:

(1) Courses that meet all the requirements of this rule.

(2) Courses for which the sponsoring organization provides satisfactory documentation that the Council on Optometric Practitioner Education (COPE) has approved the course in the areas of ocular pharmacology or ocular therapeutics. Any committee approval based on such COPE approval will cease immediately upon notice from COPE that approval of the course has been discontinued for any reason.

(b) The committee will approve a course if it determines that the course will make a significant contribution to the professional knowledge of optometrists in their understanding of:

(1) ocular pharmacology (PH); or

(2) ocular therapeutics in the areas of:

(A) anterior segment (AS);

(B) systemic and ocular disease (SD);

(C) posterior segment (PS);

(D) glaucoma (GL); or

(E) postoperative care (PO).

(c) In determining if a course meets this section, the committee will consider the following:

(1) The course has substantial content.

(2) The course content directly relates to ocular pharmacology or ocular therapeutics.

(3) Each faculty member who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject.

(4) The physical setting for the course is suitable.

(5) High quality written materials, including notes and outlines, are available to all optometrists who enroll at or before the time the course is offered.

(6) The course is of sufficient length to provide a substantial educational experience. Courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience.

(7) Appropriate educational methodology is used, including, but not limited to, the following:

(A) Prepared library packages.

(B) Courses of programmed instruction.

(C) Active participation and demonstration.

(D) Audio-visual materials.

(E) Workshops with live presentations of clinical cases.

(8) An adequate number of instructors is provided for the course. If audio-visual tapes are used as teaching materials, live presentations or discussion leaders must accompany the replaying of the tapes.

(d) Once a course is approved under this section, the course is approved for four (4) years from the date of initial approval if the:

(1) instructor remains the same; and

(2) course content remains essentially the same in substance.

(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-2-3; filed May 15, 1992, 5:00 p.m.: 15 IR 2250; filed Jan 27, 1994, 5:00 p.m.: 17 IR 1098; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896; filed Oct 20, 2005, 11:30 a.m.: 29 IR 816)

Rule 3. Application and Renewal of the Indiana Optometric Legend Drug Certificate

857 IAC 1-3-1 Applicability

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 1. This rule establishes the requirements concerning applications and fees for the issuance or renewal of certificates for optometrists to administer, dispense, and prescribe legend drugs as provided for under IC 25-26-15. *(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-3-1; filed May 15, 1992, 5:00 p.m.: 15 IR 2250; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896)*

857 IAC 1-3-2 Original certification

Authority: IC 25-26-15-13
Affected: IC 25-26-15

Sec. 2. To obtain an original certificate, an optometrist must do all of the following:

(1) Complete an Indiana optometric legend drug certificate application, which shall include the following information:

- (A) Name.
- (B) Business name (if applicable).
- (C) Primary practice address.
- (D) Indiana optometrist's license number.
- (E) Signature and date.
- (F) Answer whether or not any previous license or certificate held by the applicant has been surrendered, revoked, or denied or is pending action.

(2) Provide proof of education in ocular pharmacology from a school or college of optometry or medicine by providing a transcript of the course work taken by the applicant from the school or college.

(3) Provide a score report certifying successful completion of the Treatment and Management of Ocular Disease (TMOD) examination that is sponsored by the International Association of Boards of Examiners in Optometry (IAB) and administered by the National Board of Examiners in Optometry.

(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-3-2; filed May 15, 1992, 5:00 p.m.: 15 IR 2250; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896; filed Oct 20, 2005, 11:30 a.m.: 29 IR 817)

857 IAC 1-3-3 Renewal of the certificate

Authority: IC 25-26-15-13
Affected: IC 25-26-15

Sec. 3. (a) A certificate issued to an optometrist under IC 25-26-15 and this title expires on April 1 of each even-numbered year. The board shall renew a certificate under this section concurrently with the license of an optometrist to practice in Indiana.

(b) To renew a certificate, the optometrist must provide proof of twenty (20) hours of continuing education course work obtained since April 1 of the previous even-numbered year in courses approved by either of the following:

(1) The committee under 857 IAC 1-2.

(2) The Council on Optometric Practitioner Education, specifically in the areas of ocular pharmacology or ocular therapeutics.

(c) For purposes of certification renewal, courses of:

(1) ocular pharmacology (PH); or

(2) ocular therapeutics in the areas of:

- (A) anterior segment (AS);
- (B) systemic and ocular disease (SD);
- (C) posterior segment (PS);
- (D) glaucoma (GL); or
- (E) postoperative care (PO);

are acceptable to meet the continuing education requirement.

(d) An optometrist initially certified between April 1 of even-numbered years and March 31 of the succeeding odd-numbered year shall only be required to obtain ten (10) hours of continuing education for the initial renewal of the certificate.

(e) An optometrist initially certified between April 1 of odd-numbered years and March 31 of the succeeding even-numbered year shall not be required to obtain continuing education for the initial renewal of the certificate.

(f) Continuing education credits obtained:

(1) for the original issuance of a certificate; or

(2) to complete the continuing education requirements of a previous biennium;

may not be counted toward meeting the continuing education requirements under subsection (b). *(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-3-3; filed May 15, 1992, 5:00 p.m.: 15 IR 2250; errata filed Jul 10, 1992, 9:00 a.m.: 15 IR 2465; filed Jan 27, 1994, 5:00 p.m.: 17 IR 1098; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896; filed Oct 20, 2005, 11:30 a.m.: 29 IR 817)*

Rule 4. Fees

857 IAC 1-4-1 Fees

Authority: IC 25-26-15-13
Affected: IC 25-26-15

Sec. 1. (a) An optometrist who applies for an Indiana optometric legend drug certificate under IC 25-26-15 and this title must pay a twenty dollar (\$20) fee.

(b) To renew a certificate, an optometrist must pay a twenty dollar (\$20) renewal fee.

(c) To restore a certificate which [sic.] that is expired, an optometrist must comply with subsection (b) and 857 IAC 1-3-3. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 1-4-1; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2464; filed Jun 6, 1996, 9:00 a.m.: 19 IR 3107; readopted filed Sep 27, 2002, 2:58 p.m.: 26 IR 546*)

ARTICLE 2. FORMULARY OF LEGEND DRUGS

Rule 1. General Provisions

857 IAC 2-1-1 Applicability

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 1. This article establishes a formulary of legend drugs that may be prescribed, dispensed, or administered by an optometrist licensed in Indiana and certified under IC 25-26-15 and this title. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-1-1; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2251; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 2-1-2 Legend drugs not listed in the formulary

Authority: IC 25-26-15-13

Affected: IC 25-26-15-19

Sec. 2. All legend drugs which do not fall into the categories listed in the formulary as found in 857 IAC 2-3 are specifically excluded from use by an optometrist except for topical diagnostic legend drugs which an optometrist may administer under IC 25-26-15-19(a). (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-1-2; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2251; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 2-1-3 Certified optometrists required

Authority: IC 25-26-15-13

Affected: IC 25-26-15-19

Sec. 3. Except as provided by IC 25-26-15-19(a), only an optometrist who holds a valid Indiana optometric legend drug certificate under IC 25-26-15 and this title may administer, dispense, or prescribe the legend drugs which fall into the categories listed in the formulary. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-1-3; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2251; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 2-1-4 Generic names (*Repealed*)

Sec. 4. (*Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099*)

857 IAC 2-1-5 Injectable prohibition

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 5. Optometrists shall not prescribe, dispense, or administer injectables by any means. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-1-5; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2251; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

Rule 2. Definitions

857 IAC 2-2-1 Applicability

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-2-1; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2251; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

857 IAC 2-2-2 "Independent" defined (*Repealed*)

Sec. 2. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-2-3 “Notify” defined *(Repealed)*

Sec. 3. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-2-4 “Patient's physician” defined

Authority: IC 25-26-15-13

Affected: IC 25-26-15-14

Sec. 4. “Patient's physician”, as referred to in IC 25-26-15-14, means that licensed medical physician who, as specified by the patient and in the professional judgment of the optometrist, is the most appropriate provider with whom to communicate based upon the nature of the patient's condition and the medication being utilized. *(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-2-4; filed Jun 1, 1992, 5:00 p.m.: 15 IR 2252; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896)*

Rule 3. Formulary

857 IAC 2-3-1 Adrenergic agonists *(Repealed)*

Sec. 1. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-2 Anesthetics *(Repealed)*

Sec. 2. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-3 Antibacterials *(Repealed)*

Sec. 3. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-4 Antihistamines; mast cell stabilizers; decongestant agents *(Repealed)*

Sec. 4. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-5 Anti-inflammatory agents *(Repealed)*

Sec. 5. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-6 Antivirals *(Repealed)*

Sec. 6. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-7 Beta adrenergic blocking agents *(Repealed)*

Sec. 7. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-8 Carbonic anhydrase inhibitors *(Repealed)*

Sec. 8. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-9 Direct acting cholinergic agents (Repealed)

Sec. 9. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-10 Hyperosmotic agents (Repealed)

Sec. 10. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-11 Mydriatics and cycloplegics (Repealed)

Sec. 11. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-12 Ocular lubrication; tear testing agents (Repealed)

Sec. 12. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-13 Ophthalmic dyes (Repealed)

Sec. 13. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-14 Combination drugs (Repealed)

Sec. 14. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-15 Nonsteroidal anti-inflammatory agents (Repealed)

Sec. 15. *(Repealed by Indiana Optometric Legend Drug Prescription Advisory Committee; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099)*

857 IAC 2-3-16 Formulary of legend drugs

Authority: IC 25-26-15-13

Affected: IC 35-48-1

Sec. 16. (a) Any legend drug for the treatment of the eye or associated structures of the eye.

(b) Controlled substances as defined in IC 35-48-1 are prohibited from use by an optometrist. *(Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-3-16; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099; filed Jun 30, 1999, 2:45 p.m.: 22 IR 3414; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896; filed Nov 25, 2002, 10:30 a.m.: 26 IR 1104)*

857 IAC 2-3-17 Patient's physician notification

Authority: IC 25-26-15-13

Affected: IC 25-26-15

Sec. 17. In the best interest of the patient's health, a certified optometrist who prescribes, dispenses, or administers any legend drug which falls within the categories of section 16 of this rule is encouraged to notify the patient's physician of the use of the legend drug. (*Indiana Optometric Legend Drug Prescription Advisory Committee; 857 IAC 2-3-17; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896*)

IC 25-1-9

Chapter 9. Health Professions Standards of Practice

IC 25-1-9-1 "Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Indiana physical therapy committee (IC 25-27-1).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).

As added by P.L.152-1988, SEC.1. Amended by P.L.242-1989, SEC.7; P.L.238-1989, SEC.7; P.L.186-1990, SEC.7; P.L.48-1991, SEC.20; P.L.227-1993, SEC.7; P.L.33-1993, SEC.14; P.L.213-1993, SEC.4; P.L.1-1994, SEC.122; P.L.124-1994, SEC.6; P.L.175-1997, SEC.6; P.L.147-1997, SEC.10; P.L.84-1998, SEC.5; P.L.24-1999, SEC.6.

IC 25-1-9-2 "Practitioner" defined

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-3 "License" defined

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-3.5 "Sexual contact" defined

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched.

As added by P.L.200-2001, SEC.1.

IC 25-1-9-4 Standards of professional practice; findings required for sanctions; evidence of foreign discipline

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to

practice;

- (B) engaged in fraud or material deception in the course of professional services or activities; or
- (C) advertised services in a false or misleading manner;
- (2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence that:
 - (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
 - (ii) does not include activities performed under IC 16-21-2-9;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any other state or jurisdiction on grounds similar to those under this chapter;
- (8) a practitioner has diverted:
 - (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
- (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;
- (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
- (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care; or
- (12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization.

(b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

As added by P.L.152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96.

IC 25-1-9-5 Optometry employment practice

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

- (1) a corporation formed by an optometrist under IC 23-1.5; or
- (2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-6 Veterinary practitioners; cruelty to animals

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-6.5 Chiropractors; waiver of deductible or copayment

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is

subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

(1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and

(2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

(1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;

(2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and

(3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner.

As added by P.L.151-1989, SEC.9.

IC 25-1-9-6.7 Marriage and family therapists; disciplinary sanctions

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

(1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;

(3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;

(4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

(A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;

(B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or

(C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a report or record, or induced another individual to:

(A) make or file a false report or record; or

(B) impede or obstruct the filing of a report or record; or

(6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));

(7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;

(8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or

(9) performed services outside of the scope of practice of the license issued under IC 25-23.6.

As added by P.L.147-1997, SEC.11. Amended by P.L.2-1998, SEC.65.

IC 25-1-9-6.8 Practitioner guidelines before prescribing stimulant medication for a child for treatment of certain disorders

Sec. 6.8. (a) This section applies to a practitioner who is:

(1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or

(2) an advanced practice nurse granted prescriptive authority under IC 25-23, and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder.

As added by P.L.107-2002, SEC.28.

IC 25-1-9-6.9 Failing to provide or providing false information to agency

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

- (1) failed to provide information requested by the Indiana professional licensing agency; or
- (2) knowingly provided false information to the Indiana professional licensing agency;

for a provider profile required under IC 25-1-5-10.

As added by P.L.211-2001, SEC.2. Amended by P.L.206-2005, SEC.14.

IC 25-1-9-7 Physical or mental examination; power to require

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.

IC 25-1-9-8 Failure to submit to physical or mental examination; sanctions

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-9 Disciplinary sanctions

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education under a preceptor, or as otherwise directed or

approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.

IC 25-1-9-10 Summary license suspension pending final adjudication; notice; opportunity to be heard

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 15-5-1.1, IC 25-22.5 or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary

suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

As added by P.L.152-1988, SEC.1. Amended by P.L.43-1995, SEC.2; P.L.71-2000, SEC.18.

IC 25-1-9-10.1 Retention of clinical consultants and experts to advise on suspension

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

As added by P.L.43-1995, SEC.3.

IC 25-1-9-11 Reinstatement of suspended licenses

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-12 Reinstatement of revoked license

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-13 Consistency of sanctions prescribed

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-14 Surrender of practitioners license instead of hearing; approval

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-15 Costs in disciplinary proceedings

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.3.

IC 25-1-9-16 Refusal of licensure or grant of probationary license

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11.

IC 25-1-9-17 Applicant appearance before board or controlled substances advisory committee

Sec. 17. The board and the controlled substances advisory committee (IC 35-48-2-1) may require an applicant for licensure to appear before the board or committee before issuing a license.

As added by P.L.33-1993, SEC.16.

IC 25-1-9-18 Fitness determination of health care provider; filing complaint

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

(1) the practitioner has become unfit to practice under section 4 of this chapter; and

(2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

(1) for informal negotiation under IC 25-1-7-6;

(2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or

(3) on the board's agenda for a vote on summary suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act on behalf of the board under this section.

As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.

IC 25-1-9-19 Third party billing notice

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.12.

TITLE 16--COMMERCIAL PRACTICES
CHAPTER I--FEDERAL TRADE COMMISSION
PART 315 CONTACT LENS RULE

This is an UNOFFICIAL version of Title 16 – Commercial Practices regarding the Part 315 Contact Lens Rule prepared by the Indiana Professional Licensing Agency. An official version should be available through your public library and can be accessed on the Internet at http://www.access.gpo.gov/nara/cfr/waisidx_05/16cfr315_05.html

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Authority: Pub. L. 108-164, secs. 1-12; 117 Stat. 2024 (15 U.S.C. 7601-7610).

Source: 69 FR 40508, July 2, 2004, unless otherwise noted.

Sec. 315.1 Scope of regulations in this part.

This part, which shall be called the “Contact Lens Rule,” implements the Fairness to Contact Lens Consumers Act, codified at 15 U.S.C. 7601-7610, which requires that rules be issued to address the release, verification, and sale of contact lens prescriptions. This part specifically governs contact lens prescriptions and related issues. Part 456 of Title 16 governs the availability of eyeglass prescriptions and related issues (the Ophthalmic Practice Rules (Eyeglass Rule)).

Sec. 315.2 Definitions.

For purposes of this part, the following definitions shall apply:

Business hour means an hour between 9 a.m. and 5 p.m., during a weekday (Monday through Friday), excluding Federal holidays. “Business hour” also may include, at the seller's option, a prescriber's regular business hours on Saturdays, provided that the seller has actual knowledge of these hours. “Business hour” shall be determined based on the time zone of the prescriber.

“**Eight (8) business hours**” shall be calculated from the time the prescriber receives the prescription verification information from the seller, and shall conclude when eight (8) business hours have elapsed. For verification requests received by a prescriber during non-business hours, the calculation of “eight (8) business hours” shall begin at 9 a.m. on the next weekday that is not a Federal holiday or, if applicable, on Saturday at the beginning of the prescriber's actual business hours.

Commission means the Federal Trade Commission.

Contact lens means any contact lens for which State or Federal law requires a prescription.

Contact lens fitting means the process that begins after an initial eye examination for contact lenses and ends when a successful fit has been achieved or, in the case of a renewal prescription, ends when the prescriber determines that no change in the existing prescription is required, and such term may include:

- (1) An examination to determine lens specifications;
- (2) Except in the case of a renewal of a contact lens prescription, an initial evaluation of the fit of the contact lens on the eye; and
- (3) Medically necessary follow-up examinations.

Contact lens prescription means a prescription, issued in accordance with State and Federal law, that contains sufficient information for the complete and accurate filling of a prescription for contact lenses, including the following:

- (1) The name of the patient;
- (2) The date of examination;
- (3) The issue date and expiration date of prescription;
- (4) The name, postal address, telephone number, and facsimile telephone number of prescriber;
- (5) The power, material or manufacturer or both of the prescribed contact lens;
- (6) The base curve or appropriate designation of the prescribed contact lens;
- (7) The diameter, when appropriate, of the prescribed contact lens; and
- (8) In the case of a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of equivalent brand name.

Direct communication means completed communication by telephone, facsimile, or electronic mail.

Issue date means the date on which the patient receives a copy of the prescription at the completion of a contact lens fitting.

Ophthalmic goods are contact lenses, eyeglasses, or any component of eyeglasses.

Ophthalmic services are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

Prescriber means, with respect to contact lens prescriptions, an ophthalmologist, optometrist, or other person permitted under State law to issue prescriptions for contact lenses in compliance with any applicable requirements established by the Food and Drug Administration. "Other person," for purposes of this definition, includes a dispensing optician who is permitted under State law to issue prescriptions and who is authorized or permitted under State law to perform contact lens fitting services.

Private label contact lenses mean contact lenses that are sold under the label of a seller where the contact lenses are identical to lenses made by the same manufacturer but sold under the labels of other sellers.

Sec. 315.3 Availability of contact lens prescriptions to patients.

(a) **In general.** When a prescriber completes a contact lens fitting, the prescriber:

- (1) Whether or not requested by the patient, shall provide to the patient a copy of the contact lens prescription; and
-

(2) Shall, as directed by any person designated to act on behalf of the patient, provide or verify the contact lens prescription by electronic or other means.

(b) **Limitations.** A prescriber may not:

- (1) Require the purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section;
- (2) Require payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section; or
- (3) Require the patient to sign a waiver or release as a condition of releasing or verifying a prescription under paragraph (a)(1) or (a)(2) of this section.

Sec. 315.4 Limits on requiring immediate payment.

A prescriber may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment.

Sec. 315.5 Prescriber verification.

(a) **Prescription requirement.** A seller may sell contact lenses only in accordance with a contact lens prescription for the patient that is:

- (1) Presented to the seller by the patient or prescriber directly or by facsimile; or
- (2) Verified by direct communication.

(b) **Information for verification.** When seeking verification of a contact lens prescription, a seller shall provide the prescriber with the following information through direct communication:

- (1) The patient's full name and address;
- (2) The contact lens power, manufacturer, base curve or appropriate designation, and diameter when appropriate;
- (3) The quantity of lenses ordered;
- (4) The date of patient request;
- (5) The date and time of verification request;
- (6) The name of a contact person at the seller's company, including facsimile and telephone numbers; and
- (7) If the seller opts to include the prescriber's regular business hours on Saturdays as "business hours" for purposes of paragraph (c)(3) of this section, a clear statement of the prescriber's regular Saturday business hours.

(c) **Verification events.** A prescription is verified under paragraph (a)(2) of this section only if one of the following occurs:

- (1) The prescriber confirms the prescription is accurate by direct communication with the seller;
 - (2) The prescriber informs the seller through direct communication that the prescription is inaccurate and provides the accurate prescription; or
-

(3) The prescriber fails to communicate with the seller within eight (8) business hours after receiving from the seller the information described in paragraph (b) of this section. During these eight (8) business hours, the seller shall provide a reasonable opportunity for the prescriber to communicate with the seller concerning the verification request.

(d) **Invalid prescription.** If a prescriber informs a seller before the deadline under paragraph (c)(3) of this section that the contact lens prescription is inaccurate, expired, or otherwise invalid, the seller shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the seller to the prescriber is inaccurate, the prescriber shall correct it, and the prescription shall then be deemed verified under paragraph (c)(2) of this section.

(e) **No alteration of prescription.** A seller may not alter a contact lens prescription. Notwithstanding the preceding sentence, a seller may substitute for private label contact lenses specified on a prescription identical contact lenses that the same company manufactures and sells under different labels.

(f) **Recordkeeping requirement--verification requests.** A seller shall maintain a record of all direct communications referred to in paragraph (a) of this section. Such record shall consist of the following:

(1) For prescriptions presented to the seller: the prescription itself, or the facsimile version thereof (including an email containing a digital image of the prescription), that was presented to the seller by the patient or prescriber.

(2) For verification requests by the seller:

(i) If the communication occurs via facsimile or e-mail, a copy of the verification request, including the information provided to the prescriber pursuant to paragraph (b) of this section, and confirmation of the completed transmission thereof, including a record of the date and time the request was made;

(ii) If the communication occurs via telephone, a log:

(A) Describing the information provided pursuant to paragraph (b) of this section,

(B) Setting forth the date and time the request was made,

(C) Indicating how the call was completed, and

(D) Listing the names of the individuals who participated in the call.

(3) For communications from the prescriber, including prescription verifications:

(i) If the communication occurs via facsimile or e-mail, a copy of the communication and a record of the time and date it was received;

(ii) If the communication occurs via telephone, a log describing the information communicated, the date and time that the information was received, and the names of the individuals who participated in the call.

(4) The records required to be maintained under this section shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

(g) **Recordkeeping requirement--Saturday business hours.** A seller that exercises its option to include a prescriber's regular Saturday business hours in the time period for verification specified in Sec. 315.5(c)(3) shall maintain a record of the prescriber's regular Saturday business hours and the basis for the seller's actual knowledge thereof. Such records shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

Sec. 315.6 Expiration of contact lens prescriptions.

(a) **In general.** A contact lens prescription shall expire:

- (1) On the date specified by the law of the State in which the prescription was written, if that date is one year or more after the issue date of the prescription;
- (2) Not less than one year after the issue date of the prescription if such State law specifies no date or specifies a date that is less than one year after the issue date of the prescription; or
- (3) Notwithstanding paragraphs (a)(1) and (a)(2) of this section, on the date specified by the prescriber, if that date is based on the medical judgment of the prescriber with respect to the ocular health of the patient.

(b) **Special rules for prescriptions of less than one year.**

- (1) If a prescription expires in less than one year, the specific reasons for the medical judgment referred to in paragraph (a)(3) of this section shall be documented in the patient's medical record with sufficient detail to allow for review by a qualified professional in the field.
- (2) The documentation described in the paragraph above shall be maintained for a period of not less than three years, and it must be available for inspection by the Federal Trade Commission, its employees, and its representatives.
- (3) No prescriber shall include an expiration date on a prescription that is less than the period of time that he or she recommends for a reexamination of the patient that is medically necessary.

Sec. 315.7 Content of advertisements and other representations.

Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.

Sec. 315.8 Prohibition of certain waivers.

A prescriber may not place on a prescription, or require the patient to sign, or deliver to the patient, a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified prescription.

Sec. 315.9 Enforcement.

Any violation of this Rule shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices, and the Commission will enforce this Rule in the same manner, by the same means, and with the same jurisdiction, powers, and duties as are available to it pursuant to the Federal Trade Commission A

Sec. 315.10 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

Sec. 315.11 Effect on state and local laws.

(a) State and local laws and regulations that establish a prescription expiration date of less than one year or that restrict prescription release or require active verification are preempted.

(b) Any other State or local laws or regulations that are inconsistent with the Act or this part are preempted to the extent of the inconsistency.